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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,675	02/06/2004	Joseph A. Bruntmyer	00286-03	7536

7590 06/16/2006

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EXAMINER

AVERY, BRIDGET D

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/773,675		BRUNTMYER, JOSEPH A.	
	Examiner		Art Unit	
	Bridget Avery		3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 10-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-4 and 7-9 is/are rejected.
- 7) ☐ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/06/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species I (claims 1-9 readable thereon) in the reply filed on March 30, 2006 is acknowledged.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rutzel (US Patent 5,954,349) in view of Tsai (US Patent 6,120,044).

Rutzel teaches a scooter including: a platform (3), a steering column (4, 5), the steering column (4, 5) being joined to the platform (3), a first front wheel (10), a first rear wheel (11), the first front and the first rear wheel being attached to the platform (3), a rear steering linkage/disk (9), the rear steering linkage/disk (9) connected to the first rear wheel (11); a handle (14, 15) connected with the steering column (4, 5), a cable (12) attached to the handle (14, 15) and to the rear steering linkage (9) whereby rotation of the handle (14, 15) will cause the first rear wheel (11) to rotate into alignment with the platform (3).

Rutzel lacks the teaching of a pivotable handle.

Tsai teaches a pivotable handle (32).

Based on the teachings of Tsai, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add a pivot between the frame and the platform to permit the scooter to be folded to a compact configuration for storage.

3. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler (US Patent 1,637,614) in view of Eubanks (US Patent 2,651,526).

Kohler teaches a scooter including: a platform (4 as clearly stated on line 66), a steering post/column (D), the steering post/column (D) being pivotally joined to the platform (4), a first and second front wheel (A), a first and second rear wheel (B), the front and rear wheels (A, B) being attached to the platform (4), a rear steering linkage/gear (11), the rear steering linkage/gear (11) connected to the rear wheels (B); a pivotable handle (G) connected with the steering post/column (D), a gear mechanism (F) and handle chain connection (12) attached to the handle (G) and to the rear steering linkage (11) whereby rotation of the handle (G) will cause the rear wheels (B) to rotate into alignment with the platform (4).

Kohler lacks the teaching of a cable.

Eubanks teaches a cable (56) and pulley members (46).

Kohler discloses the claimed invention except that he uses a gear and chain instead of some other type of linkage and a cable. Eubanks teaches that a chain and cable are equivalent structure known in the art. Therefore, because these two flexible members were art-recognized equivalents at the time the invention was made, one of

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ordinary skill in the art would have found it obvious to substitute a cable and pulley for a gear and chain. It is noted that Kohler and Eubanks is analogous art having the same art classification as applicant's claimed scooter.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler ('614) and Eubanks ('526) as applied to claim 1 above, and further in view of Jones (US Patent 4,861,055).

The combination of Kohler and Eubanks lack the teaching of a sheath.

Jones teaches a cable enclosed in a sheath.

Based on the teachings of Jones, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the combination of Kohler and Eubanks by adding a sheath around the cable to permits its easy withdrawal and return and to avoid any substantial bending strain or tension in the steel/wire when the cable is not in use.

5. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler ('614) and Eubanks ('526) as applied to claim 1 above, and further in view of Johnson (US Patent 4,088,334).

The combination of Kohler and Eubanks lack the teaching of a platform extension including a brake assembly.

Johnson teaches a platform extension (27) including a brake pad/wheel assembly (37).

Based on the teachings of Johnson, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add a platform extension including a brake assembly to the combination of Kohler and Eubanks to permit a user to safely slow the vehicle to a stop. Re claim 8, the provision two smaller brake pad/wheels in place of the single brake pad/wheel would have been obvious to one having ordinary skill in the art at the time the invention was made, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Allowable Subject Matter

6. Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Borg shows a skateboard apparatus.

Harvey shows a tracking scooter.

Johnson shows a skateboard with tail brake.

Boyden shows a convertible coaster steered by tilting rider support.

Rebhun shows a hand or foot operated scooter.

Linden shows a steering device.


Daniel shows a child's coaster.

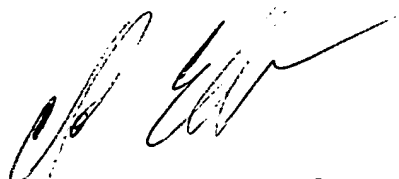
Martin shows a vehicle for children.

Griffin shows a child's coaster toy.

Allen shows a velocipede.

8. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 571-272-6691.


Avery
June 8, 2006


CHRISTOPHER P. ELLIS
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